IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 26387 of 2003(N)

PETITIONER:

M/S. SAFA PLYWOODS PVT.LTD.,
REG. OFFICE, 1/312 B&C, NEAR INDUSTRIAL
DEVELOPMENT AREA, ERUMATHALA P.O.,
ALUVA-683 105, REP. BY ITS MG.DIRECTOR,
SRI. B.H. ABDUL KHADER.

BY ADV. SRI.C.K.ABDUL RAHIM

RESPONDENTS:

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1. **THE KERALA STATE ELECTRICITY BOARD,**
   REP. BY ITS SECRETARY, VYDYUTHI BHAVAN,
   PATTOM, THIRUVANANTHAPURAM.

2. **THE ASSISTANT ENGINEER, ANTI POWER**
   THEFT SQUAD, KERALA STATE ELECTRICITY BOARD,
   ALUVA.

3. **THE ASSISTANT ENGINEER, ELECTRICAL**
   SECTION, ALUVA TOWN, KERALA STATE
   ELECTRICITY BOARD, ALUVA.

BY ADV. SRI.KODOTH SREEDHARAN, SC, KSEB
SRI.SANTHALINGAM SC. KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.26387/2003

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE JUDGMENT IN OP. NO.31654/01 DT.24.10.01.

EXT.P2:- COPY OF THE JUDGMENT IN OP. NO./35353/01 DT.28.11.01.

EXT.P3:- COPY OF THE INTERIM ORDER PASSED BY THIS HONOURABLE COURT IN CMP. NO.18589/02 IN OP. NO.10519/02 DT.12.4.02.

EXT.P4:- COPY OF THE BILL FOR PURCHASE OF THE METER, DT.19.7.01.

EXT.P5:- COPY OF THE "TEST CERTIFICATE" DT.23.7.01.

EXT.P6:- COPY OF THE MAHAZAR PREPARED ON 11.8.03.

EXT.P7:- COPY OF THE MAHAZAR WAS PREPARED AT THE TIME OF DISMANTLING OF THE METER, DT.13.8.03.

EXT.P8:- COPY OF THE MAHAZAR PREPARED ON 13.8.03 BY THE 2ND RESPONDENT.

EXT.P9:- COPY OF THE NOTICE ISSUED BY the 3RD RESPONDENT DT.14.8.03.

EXT.P10:- COPY OF THE PENAL BILL DT. 16.8.03.

EXT.P11:- COPY OF THE LAWYER NOTICE ISSUED DT.21.8.03.

EXT.P12:- COPY OF THE 'CALIBRATION CERTIFICATE' ISSUED BY THE ASSISTANT EXECUTIVE ENGINEER, TMR DIVISION, ANGAMALY, ON 21.8.03.

EXT.P13:- COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT DT.21.8.03.

/TRUE COPY/

tss

KURIAN JOSEPH, J.

W.P.(C). NO. 26387 OF 2003

Dated this the 21st day of March, 2007.

J U D G M E N T

This writ petition is filed with the following prayers.

i) Issue a writ of certiorari quashing Exhibits P9 & P10.

ii) Issue a writ of mandamus directing respondents to re-connect the petitioner's Electrical supply, forthwith.

iii) Issue a writ of mandamus directing the respondents to sent the Electric Meter dismantled from the petitioner's premises, for checking by the Regional Electrical Inspector and to make assessment of the escaped consumption if any, under the normal tariff without imposing any penalty on the petitioner.

2. The main contention of the petitioner is that, in view of the impugned action being taken after the introduction of Electricity Act, 2003, the maximum penalty can only be 150%. It is also submitted that there is no basis for charging 45% as escaped consumption, in the absence of any materials in that regard. It is for the petitioner to pursue the matter before the Appellate Authority. Therefore, this writ petition is disposed of as follows.

In the event of the petitioner filing an appeal before the Deputy Chief Engineer within a period of two months from today, same shall be duly considered by the said authority with notice to the petitioner and adverting to the contentions taken by the petitioner. Appropriate orders in accordance with law shall be passed thereon expeditiously. Needful shall be done within

a period of six months from date of production of a copy of this judgment. There shall be no further recovery in respect of the impugned demands till orders are passed by the Appellate Authority.

KURIAN JOSEPH, JUDGE.

smp